

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

STEWART T. OATMAN,

Plaintiff,

v.

COMMISSIONER INTERNAL  
REVENUE SERVICES,

Defendant.

Case No. 2:23-cv-04012-SB-AFM

ORDER TO SHOW CAUSE RE  
LACK OF JURISDICTION [DKT.  
17]

Plaintiff Stewart T. Oatman brings this tax refund case against Defendant Commissioner of Internal Revenue Services (IRS Commissioner) alleging an overpayment of taxes in 2011 and 2012. Dkt. No. [1](#). On September 7, 2023, Defendant moved to dismiss, asserting that Plaintiff failed to sue the proper party (i.e., the United States) and failed to satisfy the procedural requirements necessary to invoke subject matter jurisdiction—i.e., by paying the disputed tax and then submitting an administrative refund claim. Dkt. No. [17](#). Plaintiff, whose opposition was due September 22, 2023, has not yet responded.

By this order, the Court is notifying Plaintiff that it intends to dismiss this action on the grounds raised by the government unless Plaintiff files an opposition along with a declaration containing the facts necessary to show that he satisfied the procedural requirements of the tax refund scheme established by the Internal Revenue Code. See [\*United States v. Clintwood Elkhorn Min. Co.\*](#), 553 U.S. 1, 4 (2008) (“hold[ing] that the plain language of 26 U.S.C. §§ 7422(a) and 6511 requires a taxpayer seeking a refund . . . for any unlawfully assessed tax . . . to file

a timely administrative refund claim before bringing suit against the Government”).

The opposition must be filed by no later than 9:00 a.m. on October 12, 2023. *Failure to timely respond to this order to show cause will be construed as acknowledgement that the Court lacks jurisdiction and as consent to dismissal.*

IT IS SO ORDERED.

Date: October 3, 2023



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Stanley Blumenfeld, Jr.  
United States District Judge